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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,464	03/25/2004	Ryan Cunningham	U000-P04042US	9324
<div>33356      7590      02/05/2008 SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362</div>				
			<div>EXAMINER MANIWANG, JOSEPH R</div>	
			<div>ART UNIT 2144</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 02/05/2008</div>	<div>DELIVERY MODE PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/810,464	<b>Applicant(s)</b> CUNNINGHAM ET AL.	
	<b>Examiner</b> Joseph R. Maniwang	<b>Art Unit</b> 2144	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 61-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/22/07 has been entered.

#### ***Claim Rejections - 35 USC § 102***

3. Claims 61-69 are rejected under 35 U.S.C. 102(b) as being anticipated by Radziewicz et al. (U.S. Pat. No. 5,854,897), hereinafter referred to as Radziewicz.
4. Regarding claims 61, 64, and 67, Radziewicz disclosed a method and system comprising requesting a first web page via a network connection (see column 11, lines 30-33); displaying the first web page in a browser window (see column 5, lines 22-27; Fig. 8A); detecting if the computer is not actively sending and not actively receiving data via the network connection, and if so, automatically commencing downloading a video file via the network connection to the computer (see column 5, lines 43-47, 53-54;

column 6, lines 13-32, 36-39); during downloading the video file, detecting if the computer is commencing downloading a second web page, and if so, waiting to continue downloading the video file (see column 11, lines 41-44); after completing downloading the video file, and storing the video file in an ad pool, automatically commencing displaying the video file in a viewer window (see column 7, lines 11-17); wherein the size of the viewer window is of a size not less than a predetermined minimum size (see column 13, lines 16-44); and wherein the viewer window is located on top of all open windows (see column 20, line 60 through column 21, line 5; Fig. 8A-8D) managing the ad pool such that the video file is not displayed after it has reached a predetermined play limit (see column 15, lines 56-67).

5. Regarding claims 62, 65, and 68, Radziewicz disclosed the method and system further comprising sending a questionnaire to the computer prior to commencing downloading the second web page (see column 8, lines 1-15; column 14, lines 1-19).

6. Regarding claims 63, 66, and 69, Radziewicz disclosed the method and system wherein the viewer window is distinct from the browser window displaying the first web page (see column 13, lines 15-23; Fig. 8A).

7. Regarding claims 70-72, Radziewicz disclosed the method and system wherein the display run time of the video file is between 30 seconds and 2 ½ minutes (see column 15, line 56 through column 16, line 2).

### ***Response to Arguments***

8. Applicant's arguments filed 11/22/07 have been fully considered but they are not persuasive.

9. Regarding claims 61-72 rejected under 35 U.S.C. 102(b) as being anticipated by Radziewicz (U.S. Pat. No. 5,854,897), Applicant traverses the rejection.

10. Applicant first asserts that Radziewicz does not disclose the limitation "after completing downloading the video file, and storing the video in an ad pool", specifically that Radziewicz does not disclose storing the advertisement files in an "ad pool". To this point, Examiner first notes that the claimed "ad pool" is not defined in the claims. The term "ad pool" can be broadly interpreted as a storage provision for the downloaded video file as the claims require as much and nothing more, reciting "downloading the video file, and storing the video file in an ad pool". As noted by Applicant, Radziewicz teaches that advertisements may be stored on a computer, being downloaded from a server into a local storage device (column 7, lines 11-17). This collection of advertisements stored on the computer precisely reads on the claimed "ad pool". While limitations from the Specification are not read into the claims, Examiner particularly notes that this reading of the prior art against the claims parallels the Specification's description of an "ad pool", which is merely a collection of video advertising files downloaded and stored into a user computer ("The user receives advertising files from the access control system and the viewer program collects them into an ad pool stored on the user's computer", Specification p. 6, paragraph [0015]). Examiner thus asserts that Radziewicz reads on the limitation "storing the video file in an ad pool" as the prior

art reference clearly teaches storing a collection of video advertisements into a computer.

11. Applicant further asserts that Radziewicz does not disclose “managing the ad pool such that the video file is not displayed after it has reached a predetermined play limit” as claimed. Absent any reasoning to support Applicant’s assertion, Examiner nevertheless submits that Radziewicz clearly teaches such a provision. The claimed “predetermined play limit” is not specifically limited by the claim language, and can be reasonably interpreted as a mechanism more or less defining a condition for which a particular video file should not be displayed, or stop playing. Radziewicz discloses such a feature. Radziewicz clearly disclosed a “timing option” that set a time limit (i.e., “predetermined play limit”) that managed a video advertisement display time (column 15, lines 56-67). Clearly, once expiring this “predetermined play limit” timing, one of ordinary skill would recognize that the video advertisement would then “not display”, as required by the claims. Examiner thus asserts that Radziewicz reads on the limitation of “managing the ad pool such the video file is not displayed after it has reached a predetermined play limit” as the prior art reference clearly teaches a timing option for setting a time limit on displaying advertisements.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.


Application/Control Number:  
10/810,464  
Art Unit: 2144

Page 6

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM

  
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